

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 1445

IN THE MATTER OF:

Application of GEORGE'S)	
LIMOUSINE SERVICE for )	Served July 25, 1975
Authority to Perform )	
Charter Operations )	Application No. 868
Pursuant to Contract )	

By Application No. 868, filed July 9, 1975, George L. Booze, trading as George's Limousine Service (GLS), seeks a certificate of public convenience and necessity pursuant to Title II, Article XII, Section 4(b) of the Compact, to perform charter operations pursuant to contract. GLS proposes to transport employees, consultants and business guests of private companies, together with their baggage, over irregular routes, between points within the Metropolitan District.

GLS filed as part of its application two separate contract charter operation agreements. One, dated July 2, 1975, is between GLS and NUS Corporation's Management Training Services Department and the other, dated July 8, 1975, is between GLS and Hoffman-LaRoche, Incorporated. Both agreements contain the same basic provisions.

The terms of the agreements require GLS to provide a vehicle and driver to operate limousine services between offices of the private companies, private homes of the employees, consultants or business guests, metropolitan area hotels or motels, restaurant facilities, airports, train stations, bus stations, government facilities, and other points of arrival or departure. The services would be provided in a nine-passenger station wagon. The agreements commenced as of the date signed and may be terminated by either party on thirty days written notice. The services would be provided as requested at the rate of seventy-five cents per mile plus ten dollars per hour waiting time per trip. The employees, consultants and business guests would pay GLS for the service.

## DISCUSSION AND CONCLUSIONS

With respect to the nature of the proposed service, the Commission is of the opinion that GLS would not be a contract charter carrier.

"[A] contract charter carrier is any person which engages in transportation of passengers for hire under a continuing written contract for the furnishing of transportation services through the provision of a vehicle or vehicles to meet the distinct need and for the exclusive and periodically recurrent use of the contracting party." Investigation of Authority to Perform CONTRACT OPERATIONS, Order No. 1361, served October 16, 1974, at page 5.

GLS has entered a "continuing written contract" with each private company. The contract defines the class of persons to be transported. When requested, GLS would schedule a vehicle to transport these persons. However, the transportation would not be required on a recurring basis over a period of time. Moreover, the transportation would not be restricted to specified points and the charge for the transportation service would vary depending upon the distance and time involved in providing the limousine service on each requested occasion.

The Commission has considered several applications with respect to charter operations pursuant to contract. The nature of the service, the service requirements, the vehicles used and the terms of payment were different in each of the other applications than those proposed by GLS.

In Application of COLUMBIA TRANSPO COMPANY, INC., for a Certificate of Public Convenience and Necessity, Order No. 1346, served August 22, 1974, Columbia was authorized to transport employees and guests of the International Business Machines Corporation (IBM) among IBM's several specified facilities in Montgomery County, Md. The transportation is provided on a daily basis in twelve-passenger vehicles. The service is restricted to IBM employees and guests who are travelling among the facilities for business purposes. The service is paid for by IBM at a fixed rate per day, with allowance for services performed beyond the normal business day. The transportation is provided between fixed points for a defined class of persons on a recurring basis over a period of time at a pre-determined charge.

In Application of YELLOW CAB Company d/b/a ALL STATES LIMOUSINE SERVICE for Certificate of Public Convenience and Necessity, Order No. 1431, served May 27, 1975, Application of CENTRAL DELIVERY SERVICE, INC., for Certificate of Public Convenience and Necessity, Order No. 1432, served May 27, 1975, and Application of EXECUTIVE LIMOUSINE SERVICE, INC., for Certificate of Public Convenience and Necessity, Order No. 1433, served May 27, 1975, each carrier was authorized to transport aircraft crews of specified airlines between either Dulles International Airport (Dulles) or Washington National Airport (National) and a designated hotel or motel within the Metropolitan District. The transportation generally is provided on a weekly schedule in vehicles ranging in size from 8 passenger capacity to 14 passenger capacity. The service is restricted to the aircraft crews of the specified airlines who are travelling to and from facilities provided pursuant to contracts between the airlines and the aircraft crew unions. The service is paid for by the airline at a fixed rate per vehicle trip. The transportation is provided for a defined class of persons on a recurring basis over a period of time at a pre-determined charge.

GLS' service would not be charter pursuant to contract. The proposed service contains several of the facets of a taxicab service. The Compact, Title II, Article XII, Section 2(d) defines a taxicab as follows:

The term "taxicab" means any motor vehicle for hire (other than a vehicle operated, with the approval of the Commission, between fixed termini on regular schedules) designed to carry eight persons or less, not including the driver, used for the purpose of accepting or soliciting passengers for hire in transportation subject to this Act, along the public streets and highways, as the passengers may direct. (Emphasis added.)

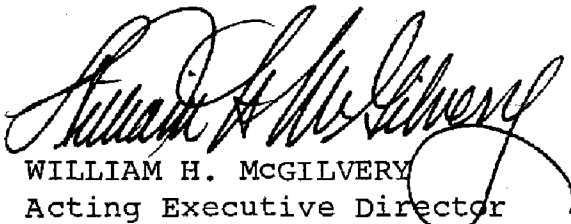
The vehicle to be used by GLS is designed to carry nine persons or less including the driver. The proposed service would be operated in such a manner as to provide transportation pursuant to requests. The vehicle clearly would be subject to the directives of the passengers. Moreover, the vehicle would not be operated between fixed termini on regular schedules. Further, the service is to be paid for by the passenger, rather than the party with whom the contract was made, and the rates are established on a mileage/hourly basis, as are most taxicab rates.

In Application of BELTWAY LIMOUSINE SERVICE, INC., for Certificate of Public Convenience and Necessity, Order No. 1425, served May 12, 1975, the Commission certificated Beltway to perform appointment-only limousine service between Dulles or National on the one hand, and on the other, three specified hotels or motels in Montgomery County and ten specified hotels or motels in Prince George's County, Md. The Commission found that Beltway's proposed service was not a taxicab operation exempt from the certificating provisions of Title II, Article XII, of the Compact. See, in particular, Section 1(c). The service performed by Beltway is similar to that proposed by GLS to the extent that each would involve prior requests for the service. This feature also is common to taxicab operations. However, Beltway was restricted to fixed termini and could not accept requests for service from any point in the Metropolitan District. In addition, Beltway provides its service at a fixed rate between specified termini in 12 or 15 passenger vehicles.

The Commission believes that the public interest does not require approval of the proposed service. The transportation would not be between fixed termini. GLS' proposed service constitutes a taxicab operation which would be rendered pursuant to the terms of a private agreement. The Commission has no jurisdiction to issue a certificate of public convenience and necessity to a taxicab operator to provide taxicab service. That jurisdiction has been retained by the local governments of the signatory parties to the Compact. Accordingly, the application for a certificate to perform a charter operation pursuant to contracts shall be denied.

THEREFORE, IT IS ORDERED that Application No. 868 of George L. Booze, trading as George's Limousine Service, for a Certificate of Public Convenience and Necessity authorizing the performance of charter operations pursuant to contract be, and it is hereby denied.

BY DIRECTION OF THE COMMISSION:

  
WILLIAM H. MCGILVERY  
Acting Executive Director